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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,216	04/07/2004	Ernest W. Moody	MOODY 51	9418
24258	7590	06/07/2007		
JOHN EDWARD ROETHEL 2290 S. JONES BLVD. #100 LAS VEGAS, NV 89146				
			EXAMINER	
			TORIMIRO, ADETOKUNBO OLUSEGUN	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			06/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/821,216	Applicant(s) MOODY, ERNEST W.	
	Examiner Adetokunbo O. Torimiro	Art Unit 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The amendment received on 03/13/2007 has been considered. It has been noted that claims 1-3 and 5-7 have been amended.

#### *Drawings*

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **ref. no. 56 (payout tray) on page 8, line 1.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3714

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferguson (US 6,270,405).

Re claim 1: Ferguson teaches a method of playing a card game consisting of only two hands / *multiple hands* (see col.3, lines 19-20) comprising displaying an initial first hand of at least five cards all face up, a player selecting which cards of the initial first hand are to be held in the initial first hand and which cards to be discarded from the initial first hand, displaying the discarded cards from the initial first hand in an initial second hand; displaying additional cards in the initial first hand resulting in a final first hand and determining the poker hand ranking of the final first hand, and displaying additional cards in the initial second hand resulting in a final second hand and determining the poker hand ranking of the final second hand (see Fig. 3A-3K; col.7, lines 46-55; col.8, lines 32-36).

**It is apparent to Examiner that multiple hands could be only two hands.**

Re claim 2 and 6: Ferguson further teaches the method including the steps of the player making a first wager that is applied to the first hand and a second wager that is applied to the second hand (see col.3, lines 37-39), paying the player a pre-established /*predetermined payoff scheduled* amount based on the amount of the first wager if the final first hand comprise a predetermined poker hand ranking, and paying the player a pre-established /*predetermined payoff scheduled* amount based on the amount of the second wager if the final second hand comprise a predetermined poker hand ranking (see col.3, lines 52-55).

Re claim 3 and 7: Ferguson also further teaches the method including the steps of the player making a wager that is allocated between the first hand and the second hand (**see col.4, lines 43-45**), paying the player a pre-established */predetermined payoff scheduled* amount based on the amount of the wager allocated to the first hand if the final first hand comprise a predetermined poker hand ranking, and paying the player a pre-established */predetermined payoff scheduled* amount based on the amount of the wager allocated to the second hand if the final second hand comprise a predetermined poker hand ranking (**see col.3, lines 52-55**).

Re claim 4 and 9: Ferguson discloses the method of playing a game in which the final first hand has at least three cards and the final second hand has at least three cards (**see fig. 3K, col.8, lines 34-36**). In respect to claims 4 and 9, it is believed to be inherent that final first hand and final second hand has five cards because the whole process of the game deals with playing five cards in the initial hand and having five cards for the final hand as well in order to determine the value of the poker hand.

Re claim 5: Ferguson teaches a method of playing a card game consisting of only two hands / *multiple hands* (**see col.3, lines 19-20**) comprising displaying an initial first hand of a plurality cards all face up, a player selecting which cards of the initial hand are to be held in the initial first hand and which cards to be discarded from the initial first hand, displaying the discarded cards from the first hand in an initial second hand; displaying additional cards in the initial first hand resulting in a final first hand and determining the

poker hand ranking of the final first hand, and displaying additional cards in the initial second hand resulting in a final second hand and determining the poker hand ranking of the final second hand (see Fig. 1A-1H; col.13, lines 4-23). **It is apparent to Examiner that multiple hands could be only two hands.**

Re claim 8: Ferguson discloses the method of playing a card game in which the first hand has at least three card (see col.4, lines 54-56).

#### *Response to Arguments*

5. The Applicants correction in regards to the claim objections and 35 USC 112 rejection is accepted therefore, that objection and rejection has been withdrawn.

Applicant's arguments filed 03/13/2007 have been fully considered but they are not persuasive. The Examiner disagrees with the argument of the Applicant that the teaching of multiple hands by prior art Ferguson does not teach or suggest playing only two hands at a time. According to the specification of the Applicant, playing only two hands is a preferred preference and not a limitation as to how many hands can be played at a time (see specification, page 5, lines 1-2). Examiner does not see anywhere in the teaching of Ferguson that play is limited to at least three hands as argued by the Applicant; instead in col.3, lines 19-20 and lines 36-39, Ferguson teaches playing multiple hands / plurality of poker hands which is interpreted by Examiner to include either only two hands, only three hands, only five hand, or anything at all as preferred. Because of these reasons, Examiner maintains rejections.

***Conclusion***


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

AOT

  
ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER